

## **TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at The Wyndham Irvine Orange County Airport, 17941 Von Karman, Irvine, CA 92614, at 9:00 a.m., on September 21, 2012. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on September 17, 2012, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 462, 5010, 5018, 5027, 5092, 5093, and 5095 of the Business and Professions Code, and to implement, interpret or make specific Sections 462, 5023, 5026, 5027, 5028, 5051, 5070.7, 5092, 5093, and 5095 of said Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, Business and Professions Code (B&P) Section 5027, requires the Board to prescribe, amend and repeal regulations regarding continuing education (CE) including the following:

- A definition of basic requirements for CE;
- At least 24 hours of qualifying CE in the area of governmental accounting and auditing for a licensee who plans, directs, or approves any financial or compliance audit report on any governmental agency during the two-year license renewal period;
- At least 24 hours of qualifying CE in the area of accounting and auditing related to reporting on financial statements for a licensee who provides audit, review or other attestation services or issues compiled financial statement reports during the two-year license renewal period;
- Completion of a CE course on the provisions of the Accountancy Act and the rules of professional conduct within a six-year period;
- CE course requirements for a licensee on inactive status to complete prior to reentering public practice ;
- A delineation of qualifying programs for maintaining competency; and,
- A system of control and compliance reporting.

Existing law requires that these regulations assure reasonable currency of knowledge and provide for a variety of alternatives for compliance. The Board has existing regulations regarding license status and CE requirements in Articles 2, 5 and 12 of Division 1 of Title 16 of the California Code of Regulations.

The American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA) have issued a joint *Statement on Standards for Continuing Professional Education (CPE) Programs (Standards)* revised January 2012, which sets forth recommended national standards for CE. This proposal would conform the Board's CE regulations, in large part, to those national standards.

In addition, it will change the CE required for applicants whose experience was obtained five or more years prior to application for licensure and for reissuance of a cancelled license to be equivalent to the higher standard of CE required for conversion from inactive status to active status (increase from 48 to 80 hours). Finally, to eliminate duplication and overlap in educational course content, the proposal would reduce the number of CE hours for the fraud course from eight hours to four hours as fraud has become a regular part of the accounting education required for licensure over the past decade.

The regulatory proposal is as follows:

**1. Amend Sections 12 and 12.5 in Title 16 of the California Code of Regulations.**

This proposal clarifies that experience for licensure must be supervised by an individual with an active license. In addition, the proposal increases the number of CE hours, from 48 to 80, if an applicant's experience was obtained five or more years prior to application for licensure. Further, it specifies that the 80 hours must be obtained in the two years prior to application, including 20 hours in the year prior to application that meet specified requirements; and, would require that the 80 hours meet the requirements of Section 87. This proposal would also require that certificates of completion be submitted to the Board, contain a verification certified by the program provider representative, such as a signature or seal, and, delineate the subject areas for which the applicant may claim credit.

**2. Amend Section 37 in Title 16 of the California Code of Regulations.**

This proposal increases the number of CE hours, from 48 to 80, an applicant for reissuance of a cancelled license must complete.

For the board to reissue a license without the authority to sign reports on attest engagements, it specifies that the applicant must obtain 80 hours in the two years prior to application, including 20 hours in the year prior to application, with at least 12 hours in subjects specified in Section 87(a)(2); and that the 80 hours meet the requirements of Section 87.

For the board to reissue a license with the authority to sign reports on attest engagements, it specifies that the applicant must obtain 80 hours in the two years prior to application and meet the requirements of Section 87. At least 20 of the 80 hours must be completed in the year prior to application, with at least 12 hours in subjects specified in Section 87(a)(2), and the 80 hours must be taken in specified subject matter areas of at least the following: (1) 16 hours in financial accounting standards; (2) 16 hours in auditing standards; (3) 8 hours in compilation and review; (4) 8 hours in other comprehensive basis of accounting; and, (5) 8 hours in the detection and/or reporting of fraud in financial statements .

This proposal would also require that certificates of completion be submitted to the Board, contain a verification certified by the program provider representative, such as a signature or seal, and, delineate the subject areas for which the applicant may claim credit.

### **3. Amend Section 80 in Title 16 of the California Code of Regulations.**

This proposal would clarify that the minimum yearly CE requirement outlined in Section 87(a)(1) does not apply to licensees renewing a license from an inactive to an active status, correct paragraph numbering errors, and adjust section references due to the proposed adoption of Section 80.1 and proposed amendments to Sections 87, 87.1, and 88.

### **4. Adopt Section 80.1 in Title 16 of the California Code of Regulations.**

This proposal would adopt Section 80.1 specifying the requirements to convert a license from an inactive to an active status prior to the license expiration date. Specifically, this amendment would renumber existing requirements for license conversion at Section 87.1 to 80.1, placing the existing requirements in this new section.

### **5. Adopt Section 80.2 in Title 16 of the California Code of Regulations.**

This proposal would adopt Section 80.2 specifying the CE requirements for renewing a license in an active status after undergoing a license status conversion, pursuant to proposed Section 80.1, and the CE requirements if the license is renewed after the license expiration date. After undergoing license status conversion, this proposal would require that for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, the licensee would be required to complete an additional 20 hours of continuing education, up to a total of 80 hours. No CE would be required for license renewal after conversion if the time period between the date of license status conversion and the next license expiration date is less than six full months.

This proposal would specify additional CE requirements after conversion for a licensee who engages in financial or compliance auditing of a governmental agency or a licensee who engages in audit, review, compilation or attestation services at any time between the date of license status conversion and the license expiration date. This proposal would also require a licensee renewing an expired license after having undergone a license status conversion to complete an additional 20 hours of CE for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, up to a total of 80 hours. For a licensee who is required to complete a total of 80 hours of CE after conversion, the following would also be required: (A) four hours of ethics CE; and (B) for those licensees required to comply with Section 80.2(c) or (d), four hours of CE related to the detection and/or reporting of fraud in financial statements. A licensee's willful failure to comply with this section would constitute cause for disciplinary action pursuant to Business and Professions Code section 5100(g).

**6. Amend Section 81 in Title 16 of the California Code of Regulations.**

This proposal would amend existing definitions for this section by specifying that the date of license renewal is the date “on which the licensee applies for” license renewal and by deleting the word “license” from the definition of “expired.”

**7. Amend Section 87 in Title 16 of the California Code of Regulations.**

This proposal would move the existing requirements specified in Sections 88(a)(1), (a)(2), and (a)(3) regarding the criteria for programs that qualify as acceptable CE to proposed Sections 87(a)(2), (a)(3), and (a)(4). In addition, this proposal would specify the following courses that would not qualify as ethics education under Section 87(b): sexual harassment, workplace harassment, and workplace violence. This proposal would also: (a) clarify that the existing accounting and auditing CE requirement must be met for a licensee if the services were provided “while engaged in the practice of public accountancy”; (b) repeal existing subsection (f); (c) reduce the fraud CE requirement from eight to four hours; and, (d) adjust section references due to proposed amendments to Sections 88 and 89.

**8. Repeal Section 87.1 in Title 16 of the California Code of Regulations.**

This proposal would repeal Section 87.1 and relocate various existing requirements specified in this section to the proposed Sections 80.1 and 80.2.

**9. Adopt Section 87.1 in Title 16 of the California Code of Regulations.**

This proposal would adopt a new Section 87.1 specifying the CE requirements for new licensees renewing a license in an active status. This proposal would include requirements for:

- (a) CE to be completed on or after the date the initial license was issued;
- (b) completing twenty hours of CE for each full six-month period from the date the initial license was issued to the first license expiration date in specified subject areas described in Sections 87(a)(2) and (a)(3);
- (c) four hours of ethics education for licensees required to obtain a full 80 hours of CE to renew;
- (d) six hours of governmental auditing CE as part of each 20 hours of CE for licensees engaged in financial or compliance auditing of a governmental agency between the date the initial license was issued and the first license expiration date;
- (e) CE in the areas of governmental accounting and auditing to meet the requirements of Section 87(c);
- (f) six hours of accounting and auditing CE as part of each 20 hours of CE for licensees engaged in audit, review, compilation, or attestation services between the date the initial license was issued and the first license expiration date;
- (g) CE in the areas of accounting and auditing to meet the requirements of Section 87(d);
- (h) completing an additional twenty additional hours of CE if an initial license expires unless the time period between the date the license expires and the date licensee applies for renewal is less than six full months; and,
- (i) CE to be completed in the two-year period immediately preceding the date on which the licensee applies for renewal.

Failure to comply with the requirements of this Section would constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

**10. Repeal Section 87.7 in Title 16 of the California Code of Regulations.**

This proposal would repeal Section 87.7 as the requirements specified by this section are no longer applicable.

**11. Amend Section 87.8 in Title 16 of the California Code of Regulations.**

This proposal would remove a past implementation date and reference to the course previously required by Section 87.7.

**12. Amend Section 87.9 in Title 16 of the California Code of Regulations.**

The proposed amendment to Section 87.9(a)(1) regarding requirements for course providers offering a regulatory review course would exclude Sections 88.2(c)(1)(A) and (c)(1)(B) from the requirements of Section 87.9 and prohibit the use of true/false type questions on final examinations for self-study courses.

**13. Amend Section 88 in Title 16 of the California Code of Regulations.**

This proposal would repeal Sections 88(a) (1), (a) (2), and (a) (3), which are being relocated to proposed Sections 87(a)(2), (a)(3), and (a)(4). In addition, this proposal would: (a) specify the requirements for when the group viewing of webcast CE programs would be permissible; (b) specify how a live facilitator of a webcast would document and verify group participation and attendance; (c) establish the timeframe during which formal correspondence or individual study (self-study) courses must be completed; (d) clarify that credit may be allowed by the CBA on an "hour-for-hour basis" for certain types of activities under subsection (g); (e) add a new method for obtaining CE credit under subsection (g) (performing technical review of instructional materials as specified); (f) specify that the maximum credit allowed for the activities listed in subsection (g) shall not exceed 25 percent of the renewal period requirement; and, (h) specify that in order for any CE hours to be acceptable to the CBA it must be completed in a program which qualifies under this Section or Section 87.9.

This proposal would also correct paragraph numbering errors, and adjust section references due to proposed amendments to this section.

**14. Amend Section 88.1 in Title 16 of the California Code of Regulations.**

This proposal would: reduce the minimum required monitoring events for webcast programs from two monitoring events each half hour to three monitoring events each hour; specify the requirements for viewing recorded or archived webcast CE programs to include the requirement that a recorded or archived webcast have a live subject matter expert facilitate the program, or otherwise meet the self-study requirements of subsection (c), Section 88 and Section 88.2(c); and, adjust section references due to proposed amendments to Sections 87 and 88.

**15. Amend Section 88.2 in Title 16 of the California Code of Regulations.**

This proposal would add new requirements for self-study courses to qualify as acceptable CE under Section 88(d). Specifically, this proposal would: delete the present method for calculating credit hours for self-study CE programs and would

replace it with two alternatives; require the self-study course to clearly define lesson objectives and manage the participant through the learning process, as specified; prohibit the use of true/false type questions on final examinations; and adjust section references due to proposed amendments to Sections 87 and 88. Finally, this proposal would eliminate the 90% passing score requirement for a self-study ethics class. Implementation of such a requirement presented an enforcement challenge to the Board as the Board currently has no authority to pre-approve these classes or course providers.

#### **16. Amend Section 89 in Title 16 of the California Code of Regulations.**

This proposal would add new requirements for licensees to report and maintain records of CE compliance for the Board. Specifically, this proposal would require: disclosure of the subject areas for the courses or programs claimed as qualifying CE hours; retention of course purchase documentation; specify the document retention requirements for CE credit claimed for performing technical review of CE instructional materials as permitted by newly proposed Section 88(f)(4); clarify the Board's authority to solicit documentation and require the licensee to provide copies of the documentation provided by this Section; and adjust section references due to proposed amendments to Section 87 and the proposed adoption of Sections 80.2 and 87.1.

#### Anticipated Benefits of the Proposal:

##### **Licensees:**

- The licensees will benefit from this regulation package due to rearranging regulation sections in a logical and less confusing manner.
- Renewals will become easier since CE requirements are more consistent with national standards.
- Licensees will experience new alternatives for compliance through the availability of new access to group-based internet courses, unlike the former regulations, and will be able to receive CE at no charge by performing specific "technical reviews" on selected CE courses.

##### **CE Providers:**

The maximum increase in revenues on CE providers would amount to \$208,840 annually.

- The beneficial impact to CE providers in the event that the entire affected population of applicants whose experience was obtained five or more years prior to application for licensure (75 in 2010/2011 FY) can potentially amount to a maximum of \$24,000 in additional CE revenue.
- The beneficial impact to CE providers in the event that the entire affected population of licensees (57 in 2010/2011 FY) requires reissuance of their cancelled licensure can potentially amount to a maximum of \$18,240 in additional CE revenue.
- The beneficial impact to CE providers should the entire affected

population of first-time licensees (521 in 2010/2011 FY) who are delinquent and renew their licensure can potentially amount to a maximum of \$166,600 in additional CE revenue.

Unlike previous regulations, the CE providers will be able to use nationally standardized measurements to design and qualify a particular CE course, or they may request to have this done for them by non-affiliated CPAs who are compensated by receiving “free” CE credit for their services.

### **Consumers:**

Consumers will benefit from these necessary changes. The regulation package will result in stronger, clearer CE requirements and greater access to methods of complying with CE for CPA professionals. Consequently, this proposal would provide greater assurances of reasonable currency of knowledge to the public. Further, California CE providers will now have the opportunity to develop CE courses that conform to national standards which reflect uniformly acceptable accountancy CE courses. Consequently, the public, which the Board is mandated to protect, will have access to accountancy services by practicing professionals who will have a greater likelihood of maintaining currency of knowledge, proficiency, and providing competent and ethical service in the performance of their duties.

### Consistency and Compatibility with Existing State Regulations

The Board has evaluated this regulatory proposal and it is neither inconsistent nor incompatible with existing state regulations.

## INCORPORATION BY REFERENCE

None

## FISCAL IMPACT ESTIMATES

### Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The focus of these regulation changes are CE-related affecting applicants for CPA licensure, licensees and CE providers. Consequently the Board must verify the various CE requirements have been met. The changes in this regulatory package will have minimal and/or absorbable fiscal impacts to the Board other than the absorbable staff time to make one-time reference changes to the new regulations in guides, handbooks, and web materials. It is estimated that it will take the staff approximately 60 additional hours per year to review and verify that the requirements found in this regulation package have been met.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**AND**

The following studies/relevant data were relied upon in making the above determination:

Over a 10-year lifetime, the total economic costs of this regulation package can range from \$0 to \$2,088,400. The potential \$208,840 annual cost would be borne by approximately 650 licensees annually which may affect firms if a firm decides to incur the cost for the licensee's continuing education.

Cost Impact on Representative Private Person or Business:

Licensees

The estimated total economic impact on the licensees identified below could range from \$0 to \$208,840 annually.

- The estimated costs to the affected population of applicants whose experience was obtained five or more years prior to application for licensure (75 in 2010/2011 FY) requiring additional hours of CE can potentially range from \$0 to \$24,000 annually.
- The estimated costs to the affected population of licensees (57 in 2010/2011 FY) seeking CE related to the reissuance of their cancelled licensure can potentially range from \$0 to \$18,240 annually.
- The estimated costs to the affected population of first-time licensees (521 in 2010/2011 FY) seeking CE related to a delinquent licensure renewal can range from \$0 to \$166,600 annually.

CE Providers

It is not anticipated that the CE providers would need to hire additional instructors to address the increased demand for their courses. It is assumed that with the large number of providers, the workload could be absorbed with existing staff resources. Cost impacts to the CE providers resulting from this regulation package are considered to be minor and



absorbable as a cost of doing business.

Effect on Housing Costs: None

## EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would affect small businesses.

## RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

### Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the estimated economic impact does not exceed \$2,088,400 over the lifetime of the proposal.

### Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and state's environment:

Business and Professions Code section 5000.1 states that "protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions." Continuing education ensures the continuing competency and currency of knowledge of licensees. This, in turn, benefits the welfare of the consumers of California who rely on the services provided by licensees.

## CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2000 Evergreen St., Ste. 250, Sacramento, California 95815.

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

## CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Matthew Stanley
Address:	2000 Evergreen St., Ste. 250 Sacramento, CA 95815
Telephone No.:	916-561-1792
Fax No.:	916-263-3678
E-Mail Address:	mstanley@cba.ca.gov

The backup contact person is:

Name:	Kari O'Connor
Address:	2000 Evergreen St., Ste. 250 Sacramento, CA 95815
Telephone No.:	916-561-1716
Fax No.:	916-263-3678
E-Mail Address:	koconnor@cba.ca.gov

Website Access: Materials regarding this proposal can be found at [http://www.dca.ca.gov/cba/laws\\_and\\_rules/pubpart.shtml](http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml).